

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 12th day of May 1998

B E F O R E

THE HON'BLE MR. JUSTICE H.N. NARAYAN

H.R.R.P. No.717/1998

BETWEEN :

H.P. Jain,  
S/o. D.H. Jain,  
Hindu, Major,  
No.915/2, (Ground Floor Portion),  
Nagarthpet, Bangalore-2.

.. PETITIONER

(By Sri. N. Nagaraj, Adv.)

AND :

C. Annayappa,  
S/o. Late B.M. Chikkannappa,  
Hindu, Major,  
No.915/2, (Portion),  
Nagarthpet, Bangalore-2.

.. RESPONDENT

(By Sri. H.K. Shetty, Adv.)

.. .. .

This petition is filed U/s.50(1) of Karnataka  
Rent Control Act against the order passed by the small  
causes Judge (SCCH-12) Bangalore, dt.11.2.98 in  
H.R.C. No.2371/93.

This petition coming on for admission this day,  
the Court made the following:-

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O R D E R

This is the tenant's revision under Section 50 clause (1) of the H.R.C. Act against the order of eviction passed by the appellate Court under Section 21(1)(h) of the Act.

2. Admitted facts are that the petitioner-respt. is a lawful tenant of two portions at the rate of 500/- rupees and another rent of Rs.300/-. Since he committed default in payment of rent and the respondent--petitioner required the premises for his bonafide use and occupation to run milk vending, he approached the Trial Court with an application under Section 21(1)(a) and (h) of the Act.

The respondent-tenant disputed the claim of the petitioner-landlord contending that his requirement is not genuine and there is no need to occupy the petition premises and there are no bonafides and needs.

3. In support of the respective contentions, the <sup>landlord</sup>petitioner~~landlord~~ initially examined himself as P.W.1 and closed his case. Respondent<sup>tenant</sup>~~tenant~~ after few adjournments examined himself in chief, but he did not offered

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himself for cross-examination.

The Trial Court thereafter, heard the learned Counsels and proceeded to pass the impugned order, the legality and correctness of which is impugned in this revision.

4. Two contentions of the petitioner's Counsel are that the Trial Court has erred in denying opportunity to the petitioner herein to enter the box for the purpose of cross examination and the Trial Court has also erred in granting an order of eviction, eventhough there is no satisfactory evidence to prove the <sup>tenant</sup> ~~petitioner's~~ requirement and that greater hardship would be caused to him as a result of matter of eviction. On the other hand, the learned Counsel for the respondent was strongly justified in the order of eviction passed by the Trial Court.

5. I have carefully perused the Judgement of the Trial Court. The Trial Court has dismissed the petition filed under Section 21(1)(a) of the

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Act. There is no revision against the dismissal of the petition under Section 21(1)(a). Therefore, a short question that arise for consideration for this Court is:

To see whether the petitioner-landlord has proved his need to occupy the premises and whether greater hardship would be caused to the tenant in the event of an order of eviction? Whether partial eviction is possible in this case?

6. In so far as the first Contention is concerned, I do not see any merit in the contentions raised by the learned Counsel for the petitioner herein. The copy of the order sheet produced by the learned Counsel appearing for the petitioner herein clearly indicates the manner in which petitioner - respondent conducted himself in the Trial Court in not availing the opportunity of appearing before it for the purpose of cross-examination. A few applications were made by the Counsel for the petitioner herein before the Trial

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Court praying time and to enter the box which was granted by the Trial Court and therefore, this is not a case whereunder the Trial Court has not given him any opportunity. Therefore, it is difficult to accept this submission.

7. In so far as the genuine requirement of the petitioner is concerned, there is evidence to show and it is not seriously challenged in the cross-examination that the petitioner requires the premises for his residential purpose with the assistance of the servant. Therefore, this requirement cannot be dubbed as false or untenable. The Trial Court has, in fact, considered the evidence of the petitioner correctly to hold that the requirement is bonafide and reasonable also.

In the circumstances, I do not find any material, at this stage, to interfere with the impugned order of the Trial Court. The respondent has not shown

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anything before the Court so far as his hardship is concerned, Trial Court has pointed out his business links elsewhere etc. In case of eviction under Section 21(1)(h), I have noticed in catena of cases that some hardship is bound to happen to the tenant, he is directed to vacate the premises. There is no ground to reject the genuine requirement of the landlord. Therefore, on this ground also, I do not find any merit in the contentions of the learned Counsel for the petitioner herein.

8. This is not a case where the Trial Court has not considered the question of partial eviction. It is not the case of the petitioner <sup>herein</sup> that a partial eviction is possible in this case. <sup>2</sup>

Having regard to these facts, I do not find any merit in this revision. The Revision is dismissed, however, granting 6 months time <sup>to the petitioner</sup> to vacate and deliver vacant possession.

Sd/-  
JUDGE